

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

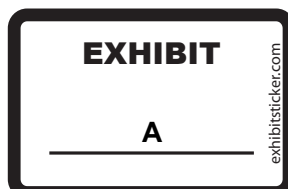
JONATHAN DAVIS and ALEXANDER	)	
HOLMES,	)	Case No.:
	)	
PLAINTIFFS,	)	
	)	
vs.	)	
	)	COMPLAINT AND
	)	JURY DEMAND
J & L INVESTMENTS, INC. d/b/a	)	
MCDONALD'S; JOHN FREYBERGER,	)	
SCOTT AMES, and JEDIDIAH KEA,	)	
Individually and in their Corporate	)	
Capacities;	)	
	)	
DEFENDANTS.	)	

COMES NOW the Plaintiffs, Jonathan Davis and Alexander Holmes (hereinafter Davis and Holmes), by and through their attorney Gregory F. Greiner, and for this cause of action against J & L Investments, Inc. d/b/a McDonald's (hereinafter McDonald's), and John Freyberger (hereinafter Freyberger), Scott Ames (hereinafter Ames), Jedidiah Kea (hereinafter Kea), Individually and in their Corporate Capacities, states as follows:

**INTRODUCTION**

1. This is a complaint that involves allegations under Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, and associated claims involving Defendants' tortious actions.

2. Plaintiff Davis is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.



3. Plaintiff Holmes is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

4. McDonald's conducts business in Iowa as a domestic profit corporation, and has its place of business in Waterloo, Black Hawk County, Iowa.

5. Upon information and belief, Mr. Freyberger is and was at all times material hereto a resident of Iowa, is an owner of McDonald's and personally participated in the unlawful actions set forth herein.

6. Upon information and belief, Mr. Ames is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

7. Upon information and belief, Mr. Kea is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

8. The amount in controversy exceeds the jurisdictional requirements of the Iowa District Court in and for Black Hawk County.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES AND CONDITIONS  
PRECEDENT**

9. Plaintiffs replead the allegations set forth as if fully set forth herein.

10. Plaintiffs filed timely charges of discrimination against the Defendants with the Iowa Civil Rights Commission.

11. Less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to the Plaintiffs.

12. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### **FACTS**

13. Plaintiffs replead the allegations set forth as if fully set forth herein.

14. Plaintiffs are African American and have dark colored skin.

15. Plaintiff Davis began working as a cook at McDonald's in approximately March 2018.

16. Plaintiff Holmes began working as a cook at McDonald's in about April 2019.

17. On May 31, 2019, Plaintiffs worked a shift along with other employees at the McDonald's and Defendant Kea was supervising the shift.

18. While Plaintiffs were cooking at the restaurant grills, a cowbell sound rung, signaling that they needed to make a double quarter pound hamburger.

19. After the bell rung, Defendant Kea stated in a voice loud enough for all employees to hear, "Can I get a thank you?"

20. None of the McDonald's employees responded to Defendant Kea.

21. Defendant Kea then stated, "So ya'll ain't gonna answer me?"

22. Plaintiff Holmes responded, "Who is you talking to?"

23. Defendant Kea loudly responded, "you two motherfuckers!" and pointed at Plaintiffs Davis and Holmes.

24. Plaintiffs Davis and Holmes were shocked by Defendant Kea's statements and tone and did not immediately respond.

25. Defendant Kea then yelled at them to clock out.

26. Plaintiff Davis was embarrassed by Defendant Kea's statements and tone and asked Defendant Kea to go outside to discuss what was happening.

27. Defendant Kea did not respond back to Plaintiff Davis' request to discuss what was happening.

28. Defendant Kea then went to the restaurant's office and called district manager, Scott Ames.

29. When Defendant Kea returned he told Plaintiffs that Scott Ames instructed them to clock out, or they would be escorted out by the police.

30. Plaintiffs left the restaurant.

31. Plaintiffs then scheduled a meeting with Defendants Freyberger and Ames with the goal of retaining their jobs at McDonald's.

32. Plaintiffs requested to have an attorney present at the meeting, and at the time of the planned meeting Defendants Freyberger and Ames cancelled the meeting and thereafter notified the Plaintiffs that they were fired on or about June 3, 2019.

33. Defendant Freyberger told Plaintiffs that they were fired because they argued with Defendant Kea and threatened violence.

34. Plaintiffs never argued with Defendant Kea or threatened violence.

35. Defendant Kea habitually treated African American employees differently from the other Caucasian employees, including excluding the African American employees from shift meetings.

36. Defendants also treated Caucasian employees differently by using different disciplinary actions in response to Caucasian employees who committed alleged workplace misconduct.

37. Defendants discriminated against Plaintiffs due to their race and skin color.

38. Defendants violated Plaintiffs right to be free of workplace discrimination.

39. Plaintiffs have been damaged financially and emotionally.

**FIRST CAUSE OF ACTION: VIOLATION OF IOWA CIVIL RIGHTS ACT  
BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF  
RACE AND SKIN COLOR**

40. Plaintiffs replead the allegations set forth as if fully set forth herein.

41. This claim is brought by Plaintiffs against Defendants for violations of the Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, on the basis race and skin color discrimination in employment.

42. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

43. Due to their race and skin color, Plaintiffs are members of a covered group.

44. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

45. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

46. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

47. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

48. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and skin color.

49. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiff's for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

**SECOND CAUSE OF ACTION: VIOLATION OF TITLE VII,  
DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN  
COLOR**

50. Plaintiffs replead the allegations set forth as if fully set forth herein.

51. This claim is brought by Plaintiffs against Defendants for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, on the basis race and skin color discrimination in employment.

52. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

53. Due to their race and skin color, Plaintiffs are members of a covered group.

54. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

55. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

56. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

57. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

58. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

59. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiff's for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of Title VII of the Civil Rights Act of 1964.

**THIRD CAUSE OF ACTION: VIOLATION OF EQUAL RIGHTS UNDER THE LAW, 42 U.S.C. § 1981, BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN COLOR**

60. Plaintiffs replead the allegations set forth as if fully set forth herein.

61. This claim is brought by Plaintiffs against Defendants for violations of the Equal Rights Under the Law, 42 U.S.C. § 1981, *et. seq.*, on the basis race and skin color discrimination in employment.

62. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

63. Due to their race and skin color, Plaintiffs are members of a covered group.



64. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

65. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

66. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

67. The hostile actions taken by the Defendants were done with the intent to harass the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and color discrimination.

68. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

69. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiff's for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purposes of 42 U.S.C. § 1981, Equal Rights Under the Law.

**JURY DEMAND**

70. Plaintiffs hereby request a trial by jury.

By: /s/ Gregory F. Greiner, AT0003094  
Attorney for Plaintiffs  
5550 Wild Rose Lane, Suite 400  
West Des Moines, IA 50266  
Phone: (515) 650-4399  
Fax: (515) 650-4388  
Email: greg@recovery-lawyers.com

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

Case No.: LACV142246

PLAINTIFFS,

vs.

ORIGINAL NOTICE

J & L INVESTMENTS, INC. d/b/a  
MCDONALD'S; JOHN FREYBERGER,  
SCOTT AMES, and JEDIDIAH KEA,  
Individually and in their Corporate  
Capacities;

DEFENDANTS.

**TO: Scott Ames**  
**121 Lovejoy Ave**  
**Waterloo, IA 50701**

**Work Address:**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

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**IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS**

**STATE OF IOWA JUDICIARY**

Case No. LACV142246

County Black Hawk

Case Title JONATHAN DAVIS ET AL VS J & L INVESTMENTS ET AL

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Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

**FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:**

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Date Issued 03/12/2021 11:19:31 AM



District Clerk of Black Hawk

County

/s/ Vanessa Rosauer

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

PLAINTIFFS,

vs.

J & L INVESTMENTS, INC. d/b/a  
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SCOTT AMES, and JEDIDIAH KEA,  
Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: John Freyberger  
2016 Howard Avenue  
Waterloo, IA 50702**

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant(s) in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The name and address of the attorney for the plaintiff(s) is Gregory F. Greiner, 5550 Wild Rose Lane, Suite 400, West Des Moines, IA 50266. The attorney's phone number is (515) 650-4399; facsimile number is (515) 650-4388.

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Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: Registered Agent:**  
**J & L Investments, Inc.**  
**Attn: John Freyberger**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

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Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: Jedidiah Kea**  
**1104 W 5th Street**  
**Waterloo, IA 50702**

**Work Address:**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

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District Clerk of Black Hawk

County

/s/ Vanessa Rosauer

**CVPS, LLC**  
 1729 FALLS AVE STE D  
 WATERLOO IA 50701  
 (319) 234-1407

A SCANNED COPY OF THIS DOCUMENT  
 WAS FILED WITH THE IOWA EDMS.

### AFFIDAVIT OF RETURN OF SERVICE

STATE OF IOWA )  
 )  
BLACK HAWK COUNTY)ss

I, the undersigned, being duly sworn on oath do hereby depose and state that I received the attached notice order, and/or other document(s) on the 12 day of MARCH, 20 21, that on the 15 day of MARCH, 20 21, I served on the within-named SCOTT AMES at 2016 HOWARD AVE (WORK), in WATERLOO in BLACK HAWK County, Iowa by delivering a true and identical copy of each such item in the following manner:

- ☒ I served the same by delivering a copy thereof to the above person(s) personally.
- ☐ I served the same on the above person at the above person's dwelling house or usual place of abode (which place was not a rooming house, hotel, club or apartment building) by there delivering a copy thereof to the individual named below, a person who was then at least 18 years old.
- ☐ I served the same on the above person at the above person's dwelling, house or usual of abode (which place was a rooming house, hotel, club or apartment) by there delivering a copy thereof to a member of the family or manager, clerk, proprietor, custodian or person(s) in possession named and described below, a person who was then at least 18 years old.
- ☐ I served the above person(s), company and/or corporation by delivering a copy to the person named and described Below. Said service was made at the address shown below, if any, otherwise at the address above.

Rule 1.302(5) Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent may take an acknowledgment of service and deliver a copy of the original notice

NAME AND TITLE OR RELATIONSHIP OF INDIVIDUAL SERVED (IF NOT SHOWN ABOVE)

Description of Person Served:

☒ M ☐ F Ethnicity/ Skin Color White Age 50's Height 5' 11" Weight 220lbs Hair Color Black  
 Beard/Mustache ☒ Y ☐ N Glasses ☒ Y ☐ N

SERVICE TIME 12:37PM

CVPS FILE NO. 21-609

ORIGINAL NOTICE; COMPLAINT AND  
 PROCESS TYPE JURY DEMAND

CASE NO. LACV142246

SUBSCRIBED AND SWORN TO BEFORE ME THE SAID

THIS 16 DAY OF MARCH, 20 21.

BY Sandra L Combs  
 SANDRA L COMBS, PROCESS SERVER

SANDRA L. COMBS



**CVPS, LLC**  
 TAX ID: 46-1053224  
 cvps@cvpsllc.net  
 www.cvpsllc.net

Anthony Miller  
 NOTARY PUBLIC



THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

PLAINTIFFS,

vs.

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MCDONALD'S; JOHN FREYBERGER,  
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Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: Scott Ames**  
**121 Lovejoy Ave**  
**Waterloo, IA 50701**

**Work Address:**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

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**CEDAR VALLEY PROCESS SERVICE**  
**DATE RECD: 3-12-2021**  
**TIME RECD: 2:00 PM**  
**FILE NO: 21-609**

**STATE OF IOWA JUDICIARY**

*Case No.* LACV142246

*County* Black Hawk

*Case Title* JONATHAN DAVIS ET AL VS J & L INVESTMENTS ET AL

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**FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>**

*Scheduled Hearing:*

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332 . (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.)

*Date Issued* 03/12/2021 11:19:31 AM



*District Clerk of* Black Hawk

*County*

/s/ Vanessa Rosauer

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER	)	
HOLMES,	)	Case No.:
	)	
PLAINTIFFS,	)	
	)	
vs.	)	
	)	COMPLAINT AND
	)	JURY DEMAND
J & L INVESTMENTS, INC. d/b/a	)	
MCDONALD'S; JOHN FREYBERGER,	)	
SCOTT AMES, and JEDIDIAH KEA,	)	
Individually and in their Corporate	)	
Capacities;	)	
	)	
DEFENDANTS.	)	

COMES NOW the Plaintiffs, Jonathan Davis and Alexander Holmes (hereinafter Davis and Holmes), by and through their attorney Gregory F. Greiner, and for this cause of action against J & L Investments, Inc. d/b/a McDonald's (hereinafter McDonald's), and John Freyberger (hereinafter Freyberger), Scott Ames (hereinafter Ames), Jedidiah Kea (hereinafter Kea), Individually and in their Corporate Capacities, states as follows:

INTRODUCTION

1. This is a complaint that involves allegations under Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, and associated claims involving Defendants' tortious actions.

2. Plaintiff Davis is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

3. Plaintiff Holmes is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

4. McDonald's conducts business in Iowa as a domestic profit corporation, and has its place of business in Waterloo, Black Hawk County, Iowa.

5. Upon information and belief, Mr. Freyberger is and was at all times material hereto a resident of Iowa, is an owner of McDonald's and personally participated in the unlawful actions set forth herein.

6. Upon information and belief, Mr. Ames is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

7. Upon information and belief, Mr. Kea is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

8. The amount in controversy exceeds the jurisdictional requirements of the Iowa District Court in and for Black Hawk County.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES AND CONDITIONS  
PRECEDENT**

9. Plaintiffs replead the allegations set forth as if fully set forth herein.

10. Plaintiffs filed timely charges of discrimination against the Defendants with the Iowa Civil Rights Commission.

11. Less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to the Plaintiffs.

12. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### FACTS

13. Plaintiffs replead the allegations set forth as if fully set forth herein.

14. Plaintiffs are African American and have dark colored skin.

15. Plaintiff Davis began working as a cook at McDonald's in approximately March 2018.

16. Plaintiff Holmes began working as a cook at McDonald's in about April 2019.

17. On May 31, 2019, Plaintiffs worked a shift along with other employees at the McDonald's and Defendant Kea was supervising the shift.

18. While Plaintiffs were cooking at the restaurant grills, a cowbell sound rung, signaling that they needed to make a double quarter pound hamburger.

19. After the bell rung, Defendant Kea stated in a voice loud enough for all employees to hear, "Can I get a thank you?"

20. None of the McDonald's employees responded to Defendant Kea.

21. Defendant Kea then stated, "So ya'll ain't gonna answer me?"

22. Plaintiff Holmes responded, "Who is you talking to?"

23. Defendant Kea loudly responded, "you two motherfuckers!" and pointed at Plaintiffs Davis and Holmes.



24. Plaintiffs Davis and Holmes were shocked by Defendant Kea's statements and tone and did not immediately respond.

25. Defendant Kea then yelled at them to clock out.

26. Plaintiff Davis was embarrassed by Defendant Kea's statements and tone and asked Defendant Kea to go outside to discuss what was happening.

27. Defendant Kea did not respond back to Plaintiff Davis' request to discuss what was happening.

28. Defendant Kea then went to the restaurant's office and called district manager, Scott Ames.

29. When Defendant Kea returned he told Plaintiffs that Scott Ames instructed them to clock out, or they would be escorted out by the police.

30. Plaintiffs left the restaurant.

31. Plaintiffs then scheduled a meeting with Defendants Freyberger and Ames with the goal of retaining their jobs at McDonald's.

32. Plaintiffs requested to have an attorney present at the meeting, and at the time of the planned meeting Defendants Freyberger and Ames cancelled the meeting and thereafter notified the Plaintiffs that they were fired on or about June 3, 2019.

33. Defendant Freyberger told Plaintiffs that they were fired because they argued with Defendant Kea and threatened violence.

34. Plaintiffs never argued with Defendant Kea or threatened violence.

35. Defendant Kea habitually treated African American employees differently from the other Caucasian employees, including excluding the African American employees from shift meetings.

36. Defendants also treated Caucasian employees differently by using different disciplinary actions in response to Caucasian employees who committed alleged workplace misconduct.

37. Defendants discriminated against Plaintiffs due to their race and skin color.

38. Defendants violated Plaintiffs right to be free of workplace discrimination.

39. Plaintiffs have been damaged financially and emotionally.

**FIRST CAUSE OF ACTION: VIOLATION OF IOWA CIVIL RIGHTS ACT  
BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF  
RACE AND SKIN COLOR**

40. Plaintiffs replead the allegations set forth as if fully set forth herein.

41. This claim is brought by Plaintiffs against Defendants for violations of the Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, on the basis race and skin color discrimination in employment.

42. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

43. Due to their race and skin color, Plaintiffs are members of a covered group.

44. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

45. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

46. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

47. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

48. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and skin color.

49. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiff's for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

**SECOND CAUSE OF ACTION: VIOLATION OF TITLE VII,  
DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN  
COLOR**

50. Plaintiffs replead the allegations set forth as if fully set forth herein.

51. This claim is brought by Plaintiffs against Defendants for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, on the basis race and skin color discrimination in employment.

52. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

53. Due to their race and skin color, Plaintiffs are members of a covered group.

54. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

55. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

56. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

57. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

58. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

59. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of Title VII of the Civil Rights Act of 1964.

**THIRD CAUSE OF ACTION: VIOLATION OF EQUAL RIGHTS UNDER  
THE LAW, 42 U.S.C. § 1981, BASED UPON DISCRIMINATION IN  
EMPLOYMENT ON THE BASIS OF RACE AND SKIN COLOR**

60. Plaintiffs replead the allegations set forth as if fully set forth herein.

61. This claim is brought by Plaintiffs against Defendants for violations of the Equal Rights Under the Law, 42 U.S.C. § 1981, *et. seq.*, on the basis race and skin color discrimination in employment.

62. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

63. Due to their race and skin color, Plaintiffs are members of a covered group.

64. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

65. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

66. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

67. The hostile actions taken by the Defendants were done with the intent to harass the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and color discrimination.

68. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

69. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purposes of 42 U.S.C. § 1981, Equal Rights Under the Law.

**JURY DEMAND**

70. Plaintiffs hereby request a trial by jury.

By: /s/ Gregory F. Greiner, AT0003094  
Attorney for Plaintiffs  
5550 Wild Rose Lane, Suite 400  
West Des Moines, IA 50266  
Phone: (515) 650-4399  
Fax: (515) 650-4388  
Email: greg@recovery-lawyers.com

## ORIGINAL NOTICE, COMPLAINT AND JURY DEMAND

INDEX/CASE# LACV142246

JOB#

## CVPS TRIP SHEET

FILE NO. 21-609

DATE RECEIVED: 3/12/2021

TIME: 2:00PM

DATE	TIME	ADDRESS	COMMENTS
13-15-21	12:37pm	2016 Howard Ave	
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

PERSON TO BE SERVED: SCOTT AMES

SIGNATURE:  Print Name & Title:The above signed individual, acknowledges they have received ☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 copies of service☒ M ☐ F Ethnicity W Age 31 Height 5'11" Weight 200 lbs Hair Color BBeard/Mustache ☒ Y ☐ N Glasses ☒ Y ☐ N

PERSON REQUESTING SERVICE:

DISCRIMINATION RECOVERY LAWYERS 5550 WILD ROSE LANE STE 400, WES DES MOINES IA 50266

ADDRESS TO BE SERVED: 121 LOVEJOY AVE

WATERLOO (01)

SPECIAL INSTRUCTIONS: WORK ADDRESS: 2016 HOWARD AVE WATERLOO (02)

PAIDS

CHECK#

DATE:



**CVPS, LLC**  
 1729 FALLS AVE STE D  
 WATERLOO IA 50701  
 (319) 234-1407

A SCANNED COPY OF THIS DOCUMENT  
 WAS FILED WITH THE IOWA EDMS.

### AFFIDAVIT OF RETURN OF SERVICE

STATE OF IOWA )  
 )  
BLACK HAWK COUNTY)ss

I, the undersigned, being duly sworn on oath do hereby depose and state that I received the attached notice order, and/or other document(s) on the 12 day of MARCH, 20 21, that on the 17 day of MARCH, 20 21, I served on the within-named JOHN FREYBERGER at 3217 HWY D65, in DYSART in TAMA County, Iowa by delivering a true and identical copy of each such item in the following manner:

- ☒ I served the same by delivering a copy thereof to the above person(s) personally.
- ☐ I served the same on the above person at the above person's dwelling house or usual place of abode (which place was not a rooming house, hotel, club or apartment building) by there delivering a copy thereof to the individual named below, a person who was then at least 18 years old.
- ☐ I served the same on the above person at the above person's dwelling, house or usual of abode (which place was a rooming house, hotel, club or apartment) by there delivering a copy thereof to a member of the family or manager, clerk, proprietor, custodian or person(s) in possession named and described below, a person who was then at least 18 years old.
- ☐ I served the above person(s), company and/or corporation by delivering a copy to the person named and described Below. Said service was made at the address shown below, if any, otherwise at the address above.

Rule 1.302(5) Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent may take an acknowledgment of service and deliver a copy of the original notice

NAME AND TITLE OR RELATIONSHIP OF INDIVIDUAL SERVED (IF NOT SHOWN ABOVE)

Description of Person Served:

☒ M ☐ F Ethnicity/ Skin Color White Age 70's Height 5' 9" Weight 198lbs Hair Color White  
 Beard/Mustache ☒ Y ☐ N Glasses ☐ Y ☒ N

SERVICE TIME 5:00PM

CVPS FILE NO. 21-612

ORIGINAL NOTICE; COMPLAINT AND  
 PROCESS TYPE JURY DEMAND

CASE NO. LACV142246

SUBSCRIBED AND SWORN TO BEFORE ME THE SAID

THIS 18 DAY OF MARCH, 20 21.

SANDRA L. COMBS



**CVPS, LLC**  
 TAX ID: 46-1053224  
 cvps@cvpsllc.net  
 www.cvpsllc.net

BY Sandra L Combs  
 SANDRA L. COMBS, PROCESS SERVER

[Signature]  
 NOTARY PUBLIC



**ANTHONY MILLER**  
 Commission Number 753187  
 MY COMMISSION EXPIRES  
 6-10-2023

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

PLAINTIFFS,

vs.

J & L INVESTMENTS, INC. d/b/a  
MCDONALD'S; JOHN FREYBERGER,  
SCOTT AMES, and JEDIDIAH KEA,  
Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: John Freyberger**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant(s) in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The name and address of the attorney for the plaintiff(s) is Gregory F. Greiner, 5550 Wild Rose Lane, Suite 400, West Des Moines, IA 50266. The attorney's phone number is (515) 650-4399; facsimile number is (515) 650-4388.

You are further notified that the above case has been filed in a county that utilizes electronic filing. Unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter file a motion or answer, in the Iowa District Court for Black Hawk County, at the courthouse in Waterloo, Iowa, judgment by default will be rendered against you for the relief demanded in the petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules Chapter 16, division VI regarding the protection of personal information in court filings.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942)

**IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS**

**CEDAR VALLEY PROCESS SERVICE**  
**DATE RECD: 3-12-2021**  
**TIME RECD: 2:04 p.m.**  
**FILE NO: 21-612**

**STATE OF IOWA JUDICIARY**

Case No. LACV142246

County Black Hawk

Case Title JONATHAN DAVIS ET AL VS J & L INVESTMENTS ET AL

**THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.**

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

**FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:**

<http://www.iowacourts.state.ia.us/Efile>

**FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16:** <http://www.iowacourts.state.ia.us/Efile>

Scheduled Hearing:

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Date Issued 03/12/2021 11:19:31 AM



District Clerk of Black Hawk

County

/s/ Vanessa Rosauer

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER	)	
HOLMES,	)	Case No.:
	)	
PLAINTIFFS,	)	
	)	
vs.	)	
	)	COMPLAINT AND
	)	JURY DEMAND
J & L INVESTMENTS, INC. d/b/a	)	
MCDONALD'S; JOHN FREYBERGER,	)	
SCOTT AMES, and JEDIDIAH KEA,	)	
Individually and in their Corporate	)	
Capacities;	)	
	)	
DEFENDANTS.	)	

COMES NOW the Plaintiffs, Jonathan Davis and Alexander Holmes (hereinafter Davis and Holmes), by and through their attorney Gregory F. Greiner, and for this cause of action against J & L Investments, Inc. d/b/a McDonald's (hereinafter McDonald's), and John Freyberger (hereinafter Freyberger), Scott Ames (hereinafter Ames), Jedidiah Kea (hereinafter Kea), Individually and in their Corporate Capacities, states as follows:

INTRODUCTION

1. This is a complaint that involves allegations under Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, and associated claims involving Defendants' tortious actions.

2. Plaintiff Davis is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

3. Plaintiff Holmes is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

4. McDonald's conducts business in Iowa as a domestic profit corporation, and has its place of business in Waterloo, Black Hawk County, Iowa.

5. Upon information and belief, Mr. Freyberger is and was at all times material hereto a resident of Iowa, is an owner of McDonald's and personally participated in the unlawful actions set forth herein.

6. Upon information and belief, Mr. Ames is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

7. Upon information and belief, Mr. Kea is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

8. The amount in controversy exceeds the jurisdictional requirements of the Iowa District Court in and for Black Hawk County.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES AND CONDITIONS  
PRECEDENT**

9. Plaintiffs replead the allegations set forth as if fully set forth herein.

10. Plaintiffs filed timely charges of discrimination against the Defendants with the Iowa Civil Rights Commission.

11. Less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to the Plaintiffs.

12. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### FACTS

13. Plaintiffs replead the allegations set forth as if fully set forth herein.

14. Plaintiffs are African American and have dark colored skin.

15. Plaintiff Davis began working as a cook at McDonald's in approximately March 2018.

16. Plaintiff Holmes began working as a cook at McDonald's in about April 2019.

17. On May 31, 2019, Plaintiffs worked a shift along with other employees at the McDonald's and Defendant Kea was supervising the shift.

18. While Plaintiffs were cooking at the restaurant grills, a cowbell sound rung, signaling that they needed to make a double quarter pound hamburger.

19. After the bell rung, Defendant Kea stated in a voice loud enough for all employees to hear, "Can I get a thank you?"

20. None of the McDonald's employees responded to Defendant Kea.

21. Defendant Kea then stated, "So ya'll ain't gonna answer me?"

22. Plaintiff Holmes responded, "Who is you talking to?"

23. Defendant Kea loudly responded, "you two motherfuckers!" and pointed at Plaintiffs Davis and Holmes.

24. Plaintiffs Davis and Holmes were shocked by Defendant Kea's statements and tone and did not immediately respond.

25. Defendant Kea then yelled at them to clock out.

26. Plaintiff Davis was embarrassed by Defendant Kea's statements and tone and asked Defendant Kea to go outside to discuss what was happening.

27. Defendant Kea did not respond back to Plaintiff Davis' request to discuss what was happening.

28. Defendant Kea then went to the restaurant's office and called district manager, Scott Ames.

29. When Defendant Kea returned he told Plaintiffs that Scott Ames instructed them to clock out, or they would be escorted out by the police.

30. Plaintiffs left the restaurant.

31. Plaintiffs then scheduled a meeting with Defendants Freyberger and Ames with the goal of retaining their jobs at McDonald's.

32. Plaintiffs requested to have an attorney present at the meeting, and at the time of the planned meeting Defendants Freyberger and Ames cancelled the meeting and thereafter notified the Plaintiffs that they were fired on or about June 3, 2019.

33. Defendant Freyberger told Plaintiffs that they were fired because they argued with Defendant Kea and threatened violence.

34. Plaintiffs never argued with Defendant Kea or threatened violence.

35. Defendant Kea habitually treated African American employees differently from the other Caucasian employees, including excluding the African American employees from shift meetings.

36. Defendants also treated Caucasian employees differently by using different disciplinary actions in response to Caucasian employees who committed alleged workplace misconduct.

37. Defendants discriminated against Plaintiffs due to their race and skin color.

38. Defendants violated Plaintiffs right to be free of workplace discrimination.

39. Plaintiffs have been damaged financially and emotionally.

**FIRST CAUSE OF ACTION: VIOLATION OF IOWA CIVIL RIGHTS ACT  
BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF  
RACE AND SKIN COLOR**

40. Plaintiffs replead the allegations set forth as if fully set forth herein.

41. This claim is brought by Plaintiffs against Defendants for violations of the Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, on the basis race and skin color discrimination in employment.

42. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

43. Due to their race and skin color, Plaintiffs are members of a covered group.



44. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

45. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

46. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

47. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

48. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and skin color.

49. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

**SECOND CAUSE OF ACTION: VIOLATION OF TITLE VII,  
DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN  
COLOR**

50. Plaintiffs replead the allegations set forth as if fully set forth herein.

51. This claim is brought by Plaintiffs against Defendants for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, on the basis race and skin color discrimination in employment.

52. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

53. Due to their race and skin color, Plaintiffs are members of a covered group.

54. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

55. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

56. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

57. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

58. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

59. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of Title VII of the Civil Rights Act of 1964.

**THIRD CAUSE OF ACTION: VIOLATION OF EQUAL RIGHTS UNDER  
THE LAW, 42 U.S.C. § 1981, BASED UPON DISCRIMINATION IN  
EMPLOYMENT ON THE BASIS OF RACE AND SKIN COLOR**

60. Plaintiffs replead the allegations set forth as if fully set forth herein.

61. This claim is brought by Plaintiffs against Defendants for violations of the Equal Rights Under the Law, 42 U.S.C. § 1981, *et. seq.*, on the basis race and skin color discrimination in employment.

62. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

63. Due to their race and skin color, Plaintiffs are members of a covered group.

64. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

65. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

66. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

67. The hostile actions taken by the Defendants were done with the intent to harass the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and color discrimination.

68. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

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**JURY DEMAND**

70. Plaintiffs hereby request a trial by jury.

By: /s/ Gregory F. Greiner, AT0003094  
Attorney for Plaintiffs  
5550 Wild Rose Lane, Suite 400  
West Des Moines, IA 50266  
Phone: (515) 650-4399  
Fax: (515) 650-4388  
Email: greg@recovery-lawyers.com

ORIGINAL NOTICE, COMPLAINT AND JURY DEMAND			
INDEX/CASE# LACV142246		JOB#	
<b>CVPS TRIP SHEET</b>			
FILE NO. 21-612	DATE RECEIVED: 3/12/2021		TIME: 2:00PM
DATE	TIME	ADDRESS	COMMENTS
1 12-15-21	12:35 pm	2016 Howard St	
2 12-16-21	5:47 pm	3217 Hwy D65	DuSart
3 12-17-21	5:00 pm	"	"
4 <del>12-18-21</del>			
5			
6			
7			
8			
9			
10			
11			
PERSON TO BE SERVED: JOHN FREYBERGER			
SIGNATURE: <i>John Freyberger</i>		Print Name & Title: John Freyberger	
The above signed individual, acknowledges they have received <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 copies of service			
<input checked="" type="checkbox"/> M <input type="checkbox"/> F	Ethnicity <u>W</u>	Age <u>73</u>	Height <u>5'9"</u> Weight <u>178</u> lbs Hair Color <u>white</u>
Beard/Mustache <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Glasses <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
PERSON REQUESTING SERVICE:			
DISCRIMINATION RECOVERY LAWYERS 5550 WILD ROSE LANE STE 400, WES DES MOINES IA 50266			
ADDRESS TO BE SERVED: 2016 HOWARD AVE			
WATERLOO (02)			
SPECIAL INSTRUCTIONS:			
PAIDS	CHECK#	DATE:	

**CVPS, LLC**  
 1729 FALLS AVE STE D  
 WATERLOO IA 50701  
 (319) 234-1407

A SCANNED COPY OF THIS DOCUMENT  
 WAS FILED WITH THE IOWA EDMS.

### AFFIDAVIT OF RETURN OF SERVICE

STATE OF IOWA )  
 )  
BLACK HAWK COUNTY)ss

I, the undersigned, being duly sworn on oath do hereby depose and state that I received the attached notice order, and/or other document(s) on the 12 day of MARCH, 20 21, that on the 17 day of MARCH, 20 21, I served on the within-named J&L INVESTMENTS, INC.

at 3217 HWY D65, in DYSART in TAMA County, Iowa  
 by delivering a true and identical copy of each such item in the following manner:

- ☐ I served the same by delivering a copy thereof to the above person(s) personally.
- ☐ I served the same on the above person at the above person's dwelling house or usual place of abode (which place was not a rooming house, hotel, club or apartment building) by there delivering a copy thereof to the individual named below, a person who was then at least 18 years old.
- ☐ I served the same on the above person at the above person's dwelling, house or usual of abode (which place was a rooming house, hotel, club or apartment) by there delivering a copy thereof to a member of the family or manager, clerk, proprietor, custodian or person(s) in possession named and described below, a person who was then at least 18 years old.
- ☒ I served the above person(s), company and/or corporation by delivering a copy to the person named and described Below. Said service was made at the address shown below, if any, otherwise at the address above.  
JOHN FREYBERGER, REGISTERED AGENT, SIGNED FOR AND ACCEPTED SERVICE ON  
BEHALF OF J&L INVESTMENTS, INC.

Rule 1.302(5) Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent may take an acknowledgment of service and deliver a copy of the original notice

NAME AND TITLE OR RELATIONSHIP OF INDIVIDUAL SERVED (IF NOT SHOWN ABOVE)

Description of Person Served:

☒ M ☐ F Ethnicity/ Skin Color White Age 70's Height 5' 9" Weight 198lbs Hair Color White  
 Beard/Mustache ☒ Y ☐ N Glasses ☐ Y ☒ N

SERVICE TIME 5:00PM

CVPS FILE NO. 21-611

ORIGINAL NOTICE; COMPLAINT AND  
 PROCESS TYPE JURY DEMAND

CASE NO. LACV142246

SUBSCRIBED AND SWORN TO BEFORE ME THE SAID

THIS 18 DAY OF MARCH, 20 21

SANDRA L. COMBS

BY: Sandra L Combs  
 SANDRA L. COMBS, PROCESS SERVER



**CVPS, LLC**  
 TAX ID: 46-1053224  
 cvps@cvpsllc.net  
 www.cvpsllc.net

Anthony Miller  
 NOTARY PUBLIC



THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

PLAINTIFFS,

vs.

J & L INVESTMENTS, INC. d/b/a  
MCDONALD'S; JOHN FREYBERGER,  
SCOTT AMES, and JEDIDIAH KEA,  
Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: Registered Agent:**  
**J & L Investments, Inc.**  
**Attn: John Freyberger**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant(s) in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The name and address of the attorney for the plaintiff(s) is Gregory F. Greiner, 5550 Wild Rose Lane, Suite 400, West Des Moines, IA 50266. The attorney's phone number is (515) 650-4399; facsimile number is (515) 650-4388.

You are further notified that the above case has been filed in a county that utilizes electronic filing. Unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter file a motion or answer, in the Iowa District Court for Black Hawk County, at the courthouse in Waterloo, Iowa, judgment by default will be rendered against you for the relief demanded in the petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules Chapter 16, division VI regarding the protection of personal information in court filings.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942)

**IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS**

**CEDAR VALLEY PROCESS SERVICE**

**DATE RECD:** 3-12-2021

**TIME RECD:** 2:07 p.m.

**FILE NO:** 21-611



**STATE OF IOWA JUDICIARY**

Case No. LACV142246

County Black Hawk

Case Title JONATHAN DAVIS ET AL VS J & L INVESTMENTS ET AL

**THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.**

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

**FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:**

<http://www.iowacourts.state.ia.us/Efile>

**FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>**

*Scheduled Hearing:*

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332 . (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.)

Date Issued 03/12/2021 11:19:31 AM



District Clerk of Black Hawk

County

/s/ Vanessa Rosauer

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER	)	
HOLMES,	)	Case No.:
	)	
PLAINTIFFS,	)	
	)	
vs.	)	
	)	COMPLAINT AND
	)	JURY DEMAND
J & L INVESTMENTS, INC. d/b/a	)	
MCDONALD'S; JOHN FREYBERGER,	)	
SCOTT AMES, and JEDIDIAH KEA,	)	
Individually and in their Corporate	)	
Capacities;	)	
	)	
DEFENDANTS.	)	

COMES NOW the Plaintiffs, Jonathan Davis and Alexander Holmes (hereinafter Davis and Holmes), by and through their attorney Gregory F. Greiner, and for this cause of action against J & L Investments, Inc. d/b/a McDonald's (hereinafter McDonald's), and John Freyberger (hereinafter Freyberger), Scott Ames (hereinafter Ames), Jedidiah Kea (hereinafter Kea), Individually and in their Corporate Capacities, states as follows:

INTRODUCTION

1. This is a complaint that involves allegations under Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, and associated claims involving Defendants' tortious actions.

2. Plaintiff Davis is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

3. Plaintiff Holmes is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

4. McDonald's conducts business in Iowa as a domestic profit corporation, and has its place of business in Waterloo, Black Hawk County, Iowa.

5. Upon information and belief, Mr. Freyberger is and was at all times material hereto a resident of Iowa, is an owner of McDonald's and personally participated in the unlawful actions set forth herein.

6. Upon information and belief, Mr. Ames is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

7. Upon information and belief, Mr. Kea is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

8. The amount in controversy exceeds the jurisdictional requirements of the Iowa District Court in and for Black Hawk County.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND CONDITIONS PRECEDENT**

9. Plaintiffs replead the allegations set forth as if fully set forth herein.

10. Plaintiffs filed timely charges of discrimination against the Defendants with the Iowa Civil Rights Commission.

11. Less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to the Plaintiffs.

12. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### FACTS

13. Plaintiffs replead the allegations set forth as if fully set forth herein.

14. Plaintiffs are African American and have dark colored skin.

15. Plaintiff Davis began working as a cook at McDonald's in approximately March 2018.

16. Plaintiff Holmes began working as a cook at McDonald's in about April 2019.

17. On May 31, 2019, Plaintiffs worked a shift along with other employees at the McDonald's and Defendant Kea was supervising the shift.

18. While Plaintiffs were cooking at the restaurant grills, a cowbell sound rung, signaling that they needed to make a double quarter pound hamburger.

19. After the bell rung, Defendant Kea stated in a voice loud enough for all employees to hear, "Can I get a thank you?"

20. None of the McDonald's employees responded to Defendant Kea.

21. Defendant Kea then stated, "So ya'll ain't gonna answer me?"

22. Plaintiff Holmes responded, "Who is you talking to?"

23. Defendant Kea loudly responded, "you two motherfuckers!" and pointed at Plaintiffs Davis and Holmes.

24. Plaintiffs Davis and Holmes were shocked by Defendant Kea's statements and tone and did not immediately respond.

25. Defendant Kea then yelled at them to clock out.

26. Plaintiff Davis was embarrassed by Defendant Kea's statements and tone and asked Defendant Kea to go outside to discuss what was happening.

27. Defendant Kea did not respond back to Plaintiff Davis' request to discuss what was happening.

28. Defendant Kea then went to the restaurant's office and called district manager, Scott Ames.

29. When Defendant Kea returned he told Plaintiffs that Scott Ames instructed them to clock out, or they would be escorted out by the police.

30. Plaintiffs left the restaurant.

31. Plaintiffs then scheduled a meeting with Defendants Freyberger and Ames with the goal of retaining their jobs at McDonald's.

32. Plaintiffs requested to have an attorney present at the meeting, and at the time of the planned meeting Defendants Freyberger and Ames cancelled the meeting and thereafter notified the Plaintiffs that they were fired on or about June 3, 2019.

33. Defendant Freyberger told Plaintiffs that they were fired because they argued with Defendant Kea and threatened violence.

34. Plaintiffs never argued with Defendant Kea or threatened violence.

35. Defendant Kea habitually treated African American employees differently from the other Caucasian employees, including excluding the African American employees from shift meetings.

36. Defendants also treated Caucasian employees differently by using different disciplinary actions in response to Caucasian employees who committed alleged workplace misconduct.

37. Defendants discriminated against Plaintiffs due to their race and skin color.

38. Defendants violated Plaintiffs right to be free of workplace discrimination.

39. Plaintiffs have been damaged financially and emotionally.

**FIRST CAUSE OF ACTION: VIOLATION OF IOWA CIVIL RIGHTS ACT  
BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF  
RACE AND SKIN COLOR**

40. Plaintiffs replead the allegations set forth as if fully set forth herein.

41. This claim is brought by Plaintiffs against Defendants for violations of the Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, on the basis race and skin color discrimination in employment.

42. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

43. Due to their race and skin color, Plaintiffs are members of a covered group.

44. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

45. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

46. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

47. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

48. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and skin color.

49. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

**SECOND CAUSE OF ACTION: VIOLATION OF TITLE VII,  
DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN  
COLOR**

50. Plaintiffs replead the allegations set forth as if fully set forth herein.

51. This claim is brought by Plaintiffs against Defendants for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, on the basis race and skin color discrimination in employment.

52. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

53. Due to their race and skin color, Plaintiffs are members of a covered group.

54. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

55. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

56. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

57. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

58. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.



59. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiff's for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of Title VII of the Civil Rights Act of 1964.

**THIRD CAUSE OF ACTION: VIOLATION OF EQUAL RIGHTS UNDER  
THE LAW, 42 U.S.C. § 1981, BASED UPON DISCRIMINATION IN  
EMPLOYMENT ON THE BASIS OF RACE AND SKIN COLOR**

60. Plaintiffs replead the allegations set forth as if fully set forth herein.

61. This claim is brought by Plaintiffs against Defendants for violations of the Equal Rights Under the Law, 42 U.S.C. § 1981, *et. seq.*, on the basis race and skin color discrimination in employment.

62. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

63. Due to their race and skin color, Plaintiffs are members of a covered group.

64. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

65. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

66. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

67. The hostile actions taken by the Defendants were done with the intent to harass the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and color discrimination.

68. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

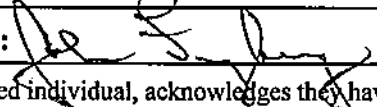
69. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purposes of 42 U.S.C. § 1981, Equal Rights Under the Law.

**JURY DEMAND**

70. Plaintiffs hereby request a trial by jury.

By: /s/ Gregory F. Greiner, AT0003094  
Attorney for Plaintiffs  
5550 Wild Rose Lane, Suite 400  
West Des Moines, IA 50266  
Phone: (515) 650-4399  
Fax: (515) 650-4388  
Email: greg@recovery-lawyers.com

ORIGINAL NOTICE, COMPLAINT AND JURY DEMAND			
INDEX/CASE# LACV142246		JOB#	
<b>CVPS TRIP SHEET</b>			
FILE NO. 21-611	DATE RECEIVED: 3/12/2021		TIME: 2:00PM
DATE	TIME	ADDRESS	COMMENTS
1 3-15-21	12:35 pm	2016 Howard Ave	
2 3-16-21	5:47 pm	3217 H.W.D. 65 Dystart	
3 3-17-21	5:00 pm	" "	" "
4			
5			
6			
7			
8			
9			
10			
11			
PERSON TO BE SERVED: J & L INVESTMENTS, INC. R/A JOHN FREYBERGER			
SIGNATURE: 		Print Name & Title: John Freyberger	
The above signed individual, acknowledges they have received <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 copies of service			
<input checked="" type="checkbox"/> M <input type="checkbox"/> F	Ethnicity <u>W</u>	Age <u>73</u>	Height <u>5' 9"</u> Weight <u>175</u> lbs Hair Color <u>white</u>
Beard/Mustache <input checked="" type="checkbox"/> Y <input type="checkbox"/> N		Glasses <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
PERSON REQUESTING SERVICE:			
DISCRIMINATION RECOVERY LAWYERS 5550 WILD ROSE LANE STE 400, WES DES MOINES IA 50266			
ADDRESS TO BE SERVED: 2016 HOWARD AVE			
WATERLOO (02)			
SPECIAL INSTRUCTIONS:			
PAIDS	CHECK#	DATE:	

**CVPS, LLC**  
 1729 FALLS AVE STE D  
 WATERLOO IA 50701  
 (319) 234-1407

A SCANNED COPY OF THIS DOCUMENT  
 WAS FILED WITH THE IOWA EDMS.

### AFFIDAVIT OF RETURN OF SERVICE

STATE OF IOWA )  
 )  
BLACK HAWK COUNTY)ss

I, the undersigned, being duly sworn on oath do hereby depose and state that I received the attached notice order, and/or other document(s) on the 12 day of MARCH, 20 21, that on the 16 day of MARCH, 20 21, I served on the within-named JEDIDIAH KEA at 1104 W 5TH ST, in WATERLOO, in BLACK HAWK County, Iowa by delivering a true and identical copy of each such item in the following manner:

- ☒ I served the same by delivering a copy thereof to the above person(s) personally.
- ☐ I served the same on the above person at the above person's dwelling house or usual place of abode (which place was not a rooming house, hotel, club or apartment building) by there delivering a copy thereof to the individual named below, a person who was then at least 18 years old.
- ☐ I served the same on the above person at the above person's dwelling, house or usual of abode (which place was a rooming house, hotel, club or apartment) by there delivering a copy thereof to a member of the family or manager, clerk, proprietor, custodian or person(s) in possession named and described below, a person who was then at least 18 years old.
- ☐ I served the above person(s), company and/or corporation by delivering a copy to the person named and described Below. Said service was made at the address shown below, if any, otherwise at the address above.

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NAME AND TITLE OR RELATIONSHIP OF INDIVIDUAL SERVED (IF NOT SHOWN ABOVE)

Description of Person Served:

☒ M ☐ F Ethnicity/ Skin Color White Age 40's Height 6' 0" Weight 160lbs Hair Color Bald  
 Beard/Mustache ☒ Y ☐ N Glasses ☒ Y ☐ N

SERVICE TIME 9:01PM

CVPS FILE NO. 21-610

ORIGINAL NOTICE; COMPLAINT AND  
 PROCESS TYPE JURY DEMAND

CASE NO. LACV142246

SUBSCRIBED AND SWORN TO BEFORE ME THE SAID

THIS 17 DAY OF MARCH, 20 21.

SANDRA L. COMBS



**CVPS, LLC**  
 TAX ID: 46-1053224  
 cvps@cvpsllc.net  
 www.cvpsllc.net

BY Sandra L Combs

SANDRA L. COMBS, PROCESS SERVER

[Signature]  
 NOTARY PUBLIC



ANTHONY MILLER  
 Commission Number 753187  
 MY COMMISSION EXPIRES  
 6-10-2023

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER  
HOLMES,

PLAINTIFFS,

vs.

J & L INVESTMENTS, INC. d/b/a  
MCDONALD'S; JOHN FREYBERGER,  
SCOTT AMES, and JEDIDIAH KEA,  
Individually and in their Corporate  
Capacities;

DEFENDANTS.

Case No.: LACV142246

ORIGINAL NOTICE

**TO: Jedidiah Kea**  
**1104 W 5th Street**  
**Waterloo, IA 50702**

**Work Address:**  
**2016 Howard Avenue**  
**Waterloo, IA 50702**

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant(s) in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The name and address of the attorney for the plaintiff(s) is Gregory F. Greiner, 5550 Wild Rose Lane, Suite 400, West Des Moines, IA 50266. The attorney's phone number is (515) 650-4399; facsimile number is (515) 650-4388.

You are further notified that the above case has been filed in a county that utilizes electronic filing. Unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter file a motion or answer, in the Iowa District Court for Black Hawk County, at the courthouse in Waterloo, Iowa, judgment by default will be rendered against you for the relief demanded in the petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules Chapter 16, division VI regarding the protection of personal information in court filings.

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**IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS**

**CEDAR VALLEY PROCESS SERVICE**  
**DATE RECD: 3-12-21**  
**TIME RECD: 2:00 P.M.**  
**FILE NO: 21-610**

**STATE OF IOWA JUDICIARY**

Case No. LACV142246

County Black Hawk

Case Title JONATHAN DAVIS ET AL VS J & L INVESTMENTS ET AL

**THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.**

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

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**FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>**

*Scheduled Hearing:*

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332 . (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.)

Date Issued 03/12/2021 11:19:31 AM



District Clerk of Black Hawk

County

/s/ Vanessa Rosauer

THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

JONATHAN DAVIS and ALEXANDER	)	
HOLMES,	)	Case No.:
	)	
PLAINTIFFS,	)	
	)	
vs.	)	
	)	COMPLAINT AND
	)	JURY DEMAND
J & L INVESTMENTS, INC. d/b/a	)	
MCDONALD'S; JOHN FREYBERGER,	)	
SCOTT AMES, and JEDIDIAH KEA,	)	
Individually and in their Corporate	)	
Capacities;	)	
	)	
DEFENDANTS.	)	

COMES NOW the Plaintiffs, Jonathan Davis and Alexander Holmes (hereinafter Davis and Holmes), by and through their attorney Gregory F. Greiner, and for this cause of action against J & L Investments, Inc. d/b/a McDonald's (hereinafter McDonald's), and John Freyberger (hereinafter Freyberger), Scott Ames (hereinafter Ames), Jedidiah Kea (hereinafter Kea), Individually and in their Corporate Capacities, states as follows:

INTRODUCTION

1. This is a complaint that involves allegations under Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, and associated claims involving Defendants' tortious actions.

2. Plaintiff Davis is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.



3. Plaintiff Holmes is and was at all times material hereto a resident of Waterloo, Black Hawk County, Iowa.

4. McDonald's conducts business in Iowa as a domestic profit corporation, and has its place of business in Waterloo, Black Hawk County, Iowa.

5. Upon information and belief, Mr. Freyberger is and was at all times material hereto a resident of Iowa, is an owner of McDonald's and personally participated in the unlawful actions set forth herein.

6. Upon information and belief, Mr. Ames is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

7. Upon information and belief, Mr. Kea is and was at all times material hereto a resident of Iowa, is an employee of McDonald's and personally participated in the unlawful actions set forth herein.

8. The amount in controversy exceeds the jurisdictional requirements of the Iowa District Court in and for Black Hawk County.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND CONDITIONS PRECEDENT**

9. Plaintiffs replead the allegations set forth as if fully set forth herein.

10. Plaintiffs filed timely charges of discrimination against the Defendants with the Iowa Civil Rights Commission.

11. Less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to the Plaintiffs.

12. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### FACTS

13. Plaintiffs replead the allegations set forth as if fully set forth herein.

14. Plaintiffs are African American and have dark colored skin.

15. Plaintiff Davis began working as a cook at McDonald's in approximately March 2018.

16. Plaintiff Holmes began working as a cook at McDonald's in about April 2019.

17. On May 31, 2019, Plaintiffs worked a shift along with other employees at the McDonald's and Defendant Kea was supervising the shift.

18. While Plaintiffs were cooking at the restaurant grills, a cowbell sound rung, signaling that they needed to make a double quarter pound hamburger.

19. After the bell rung, Defendant Kea stated in a voice loud enough for all employees to hear, "Can I get a thank you?"

20. None of the McDonald's employees responded to Defendant Kea.

21. Defendant Kea then stated, "So ya'll ain't gonna answer me?"

22. Plaintiff Holmes responded, "Who is you talking to?"

23. Defendant Kea loudly responded, "you two motherfuckers!" and pointed at Plaintiffs Davis and Holmes.

24. Plaintiffs Davis and Holmes were shocked by Defendant Kea's statements and tone and did not immediately respond.

25. Defendant Kea then yelled at them to clock out.

26. Plaintiff Davis was embarrassed by Defendant Kea's statements and tone and asked Defendant Kea to go outside to discuss what was happening.

27. Defendant Kea did not respond back to Plaintiff Davis' request to discuss what was happening.

28. Defendant Kea then went to the restaurant's office and called district manager, Scott Ames.

29. When Defendant Kea returned he told Plaintiffs that Scott Ames instructed them to clock out, or they would be escorted out by the police.

30. Plaintiffs left the restaurant.

31. Plaintiffs then scheduled a meeting with Defendants Freyberger and Ames with the goal of retaining their jobs at McDonald's.

32. Plaintiffs requested to have an attorney present at the meeting, and at the time of the planned meeting Defendants Freyberger and Ames cancelled the meeting and thereafter notified the Plaintiffs that they were fired on or about June 3, 2019.

33. Defendant Freyberger told Plaintiffs that they were fired because they argued with Defendant Kea and threatened violence.

34. Plaintiffs never argued with Defendant Kea or threatened violence.

35. Defendant Kea habitually treated African American employees differently from the other Caucasian employees, including excluding the African American employees from shift meetings.

36. Defendants also treated Caucasian employees differently by using different disciplinary actions in response to Caucasian employees who committed alleged workplace misconduct.

37. Defendants discriminated against Plaintiffs due to their race and skin color.

38. Defendants violated Plaintiffs right to be free of workplace discrimination.

39. Plaintiffs have been damaged financially and emotionally.

**FIRST CAUSE OF ACTION: VIOLATION OF IOWA CIVIL RIGHTS ACT  
BASED UPON DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF  
RACE AND SKIN COLOR**

40. Plaintiffs replead the allegations set forth as if fully set forth herein.

41. This claim is brought by Plaintiffs against Defendants for violations of the Iowa Civil Rights Act, Iowa Code Chapter 216, *et. seq.*, on the basis race and skin color discrimination in employment.

42. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

43. Due to their race and skin color, Plaintiffs are members of a covered group.

44. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

45. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

46. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

47. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

48. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and skin color.

49. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

**SECOND CAUSE OF ACTION: VIOLATION OF TITLE VII,  
DISCRIMINATION IN EMPLOYMENT ON THE BASIS OF RACE AND SKIN  
COLOR**

50. Plaintiffs replead the allegations set forth as if fully set forth herein.

51. This claim is brought by Plaintiffs against Defendants for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, on the basis race and skin color discrimination in employment.

52. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

53. Due to their race and skin color, Plaintiffs are members of a covered group.

54. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

55. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

56. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

57. The hostile actions taken by the Defendants were done with the intent to discriminate against the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and skin color discrimination.

58. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

59. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of Title VII of the Civil Rights Act of 1964.

**THIRD CAUSE OF ACTION: VIOLATION OF EQUAL RIGHTS UNDER  
THE LAW, 42 U.S.C. § 1981, BASED UPON DISCRIMINATION IN  
EMPLOYMENT ON THE BASIS OF RACE AND SKIN COLOR**

60. Plaintiffs replead the allegations set forth as if fully set forth herein.

61. This claim is brought by Plaintiffs against Defendants for violations of the Equal Rights Under the Law, 42 U.S.C. § 1981, *et. seq.*, on the basis race and skin color discrimination in employment.

62. Plaintiffs were discriminated against based upon their race and skin color by Defendants.

63. Due to their race and skin color, Plaintiffs are members of a covered group.

64. Defendants subjected Plaintiffs to a hostile work environment and terminated them on or about June 3, 2019.

65. Plaintiffs' race and skin color were motivating factors for the harassment, discrimination, and wrongful termination.

66. But for Plaintiffs' race and skin color they would not have been harassed, discriminated against, and wrongfully terminated by the Defendants.

67. The hostile actions taken by the Defendants were done with the intent to harass the Plaintiffs and Defendants stated reasons for terminating the Plaintiffs were a pretext to hide race and color discrimination.

68. The Defendants acted with willfulness, malice, or reckless disregard to the Plaintiffs' rights not to be discriminated against on the basis of race and color.

69. Because of the Defendants' actions, Plaintiffs have suffered injuries, to include but not limited liquidated damages for lost wages and benefits and future lost income and benefits.

WHEREFORE Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate Plaintiffs for their injuries and damages, including lost wages, mental anguish, damage to reputation, and punitive damages, for appropriate equitable relief, for prejudgment and post judgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purposes of 42 U.S.C. § 1981, Equal Rights Under the Law.



**JURY DEMAND**

70. Plaintiffs hereby request a trial by jury.

By: /s/ Gregory F. Greiner, AT0003094  
Attorney for Plaintiffs  
5550 Wild Rose Lane, Suite 400  
West Des Moines, IA 50266  
Phone: (515) 650-4399  
Fax: (515) 650-4388  
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## ORIGINAL NOTICE, COMPLAINT AND JURY DEMAND

INDEX/CASE# LACV142246

JOB#

## CVPS TRIP SHEET

FILE NO. 21-610

DATE RECEIVED: 3/12/2021

TIME: 2:00PM

DATE	TIME	ADDRESS	COMMENTS
13-15-21	12:35 pm	2016 Howard St	
23-16-21	6:12 pm	1104 W 5th St	
33-16-21	6:48 pm	1104 W 5th St	
43-16-21	9:01 pm	"	"
5			
6			
7			
8			
9			
10			
11			

PERSON TO BE SERVED: JEDIDIAH KEA

SIGNATURE: 

Print Name &amp; Title: Jedidiah Kea

The above signed individual acknowledges they have received ☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 copies of service
☒ M ☐ F Ethnicity W Age 42 Height 6'0" Weight 160 lbs Hair Color Bald
Beard/Mustache ☒ Y ☐ N Glasses ☐ Y ☐ N

PERSON REQUESTING SERVICE:

DISCRIMINATION RECOVERY LAWYERS 5550 WILD ROSE LANE STE 400, WES DES MOINES IA 50266

ADDRESS TO BE SERVED: 1104 W 5TH ST

WATERLOO (02)

SPECIAL INSTRUCTIONS: WORK ADDRESS: 2016 HOWARD AVE WATERLOO (02)

PAIDS

CHECK#

DATE: